

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Case No. 15-30684

SHEILA A. HODGE,

Chapter 13

Debtor.

Hon. DANIEL S. OPPERMAN

_____/

**RESPONSE BY THE STATE OF MICHIGAN DEPARTMENT OF TREASURY
TO DEBTORS OBJECTION TO ITS CLAIM**

Defendant, State Of Michigan, Department of Treasury, through its attorneys, Bill Schuette, Attorney General, and Moe Freedman, Assistant Attorney General responds as follows:

1. On April 30, 2015 the Michigan Department of Treasury (Treasury) filed a Proof of Claim in this case which was later amended on August 31, 2015.
2. Treasury's claims after amendment is a secured claim in the amount of \$20,677.71.
3. On October 13, 2015 Debtor objected to Treasury's claim claiming that Treasury's claim fails to account for voluntary payments made by the Debtor to Treasury and that Treasury has seized Debtor's tax refunds while failing to account for those funds on the Proof of Claim.
4. Treasury's avers that its Proof of Claim is for the correct amounts and in its amended form, accounts for the last voluntary payment made by the Debtor.

5. In absence of a Notice, Treasury will continue to estimate the taxes owed by the business.
6. Treasury's claims are afforded *prima facie* validity. *In re Spohn*, 61 Bankr. 264 (Bankr. W.D. Wisc. 1986); *In re Circle J Dairy, Inc.* 112 Bankr. 297 (Bankr. W.D. Ark. 1989). Unless the debtor objects and tenders sufficient evidence to overcome the prima facie validity accorded the claims, the claims must be allowed. *Id.*
7. Under the Bankruptcy Code, the Debtor is required to prove the lack of validity of the supporting figures to calculate Treasury's debt. This burden may not be shifted from the debtor to the creditor. Bankruptcy rule 3001(f). See also *Raleigh v. Illinois Department of Revenue*, 530 U.S. 15; 120 S. Ct. 1951; 147 L.E.Ed.2d 13(2000).

Based on the above, the Michigan Department of Treasury respectfully requests that the Debtor's objection to Treasury's claims be denied.

Respectfully submitted,

Bill Schuette
Attorney General


/s/Moe Freedman
Moe Freedman (P74224)
Assistant Attorney General
3030 W. Grand Blvd.,
Suite 10-200
Detroit, MI 48202
Phone: (313) 456-0140
Freedmanm1@michigan.gov

Dated October 21, 2015